



Virginia Stephens  
10/01/2001 05:41:23 PM

Record Type: Record

To: Andrea Sarzynski/WHO/EOP@EOP  
CC:  
Subject: Request for Comments, Energy Streamlining Task Force

----- Forwarded by Virginia Stephens/CEQ/EOP on 10/01/2001 05:44 PM -----



"Neuenschwander, Tod" <Tod@mgninc.com>  
10/01/2001 04:19:02 PM

Record Type: Record

To: Edward A. Boling Energy Task Force/CEQ/EOP@EOP  
CC:  
Subject: Request for Comments, Energy Streamlining Task Force

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Attached in Word format and as part of this email are comments for the Energy Streamlining Task Force that specifically address an energy project and a specific need to coordinate the activities of two federal agencies so the project may move forward.

Should you need to contact me, I can be reached at:

Tod Neuenschwander  
McClure, Gerard & Neuenschwander, Inc.  
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Washington, DC 20002  
Ph: 202-543-7200 Fax: 202-543-0616  
Email: tod@mgninc.com

Thank You.

<<CEQ comments,final.doc>>

Mr. James L. Connaughton  
Chair, Council on Environmental Quality  
Executive Office of the President  
17th and G Sts., NW  
Washington, DC 20503  
ATTENTION: Task Force

Dear Chairman Connaughton and members of the Task Force:

Private Fuel Storage LLC is pleased to respond to the request by the Energy Task Force and the Council of Environmental Quality for information regarding the actions and coordination of federal agencies in moving energy projects forward under Executive Order 13212. We applaud the President's directive and share his desire to ensure that viable energy projects not be unnecessarily constrained or delayed by the failure of federal agencies to act.

Private Fuel Storage LLC was formed to address the interim storage needs for many utilities. A consortium of eight nuclear utilities formed Private Fuel Storage LLC for the purpose of licensing, constructing, and operating an interim spent fuel storage facility. In particular, the facility would be capable of temporarily storing approximately half of the nation's civilian spent nuclear fuel until it can be shipped to the permanent federal repository.

The purpose of our comments is to highlight a specific ongoing situation in which a federal agency, the Department of Defense, has failed to fulfill its legal responsibilities to perform and provide a mandated study to another federal agency, the Department of the Interior. The Department of Defense's failure to act will result in a severe impact on an urgently needed energy related project.

**Present Situation --** Currently, the license application for the independent spent nuclear fuel storage facility on the Skull Valley Band of Goshute Indian Reservation, in Skull Valley, Utah, filed by Private Fuel Storage, LLC, is pending before the Nuclear Regulatory Commission (NRC). An application has also been filed with the Bureau of Land Management for a right of way across federal lands to construct a railroad to serve the facility. The construction of the railroad across federal lands requires that the Bureau of Land Management amend the Pony Express Resource Management Plan (Federal Register, Vol. 64, p. 18,633 (1999). Section 2815 of the Defense Authorization Act of 2000 (Public Law No. 106-65) requires the Secretary of Defense to conduct a study to evaluate the impact upon military training, testing and operational readiness of any proposed changes in land designation or management of land adjacent to or near the Utah Test and Training Range (UTTR) and Dugway Proving Ground or beneath the Military Operating Areas, Restricted Areas, and airspace that makes up the Utah National Defense Lands.

Although originally intended to assure the study of potential impacts that wilderness designation of Utah National Defense Lands would have on military operations, the Department of Interior has notified Private Fuel Storage, L.L.C., that any amendment to the Pony Express plan requires the Office of the Secretary of Defense to complete such a study and report its findings to Congress.

**Problem -** To this date the Department of Defense has failed to undertake a study as required by Section 2815 of the Defense Authorization Act of 2000.

**Solution -** The Department of Defense should immediately undertake a study as required by Public Law No. 106-65 and report its findings to Congress in a

reasonable time. There is no reason for delay.

**Information Available** -- Private Fuel Storage LLC has analyzed in great depth the civilian and military aviation activities that take place in the vicinity of the spent fuel storage facility site. The Private Fuel Storage analysis was conducted by three senior retired Air Force officers and specifically considered Air Force operations associated with nearby Hill Air Force Base and the UTTR and safety data regarding the specific Air Force aircraft that utilize the UTTR. In addition, Private Fuel Storage also assessed the hazard posed by weapons use on the UTTR and Dugway Proving Ground, including cruise missile testing. Private Fuel Storage has provided its analysis and its supporting documentation to the Department of Defense (Air Force). It concluded that such activity would have no effect on Air Force operations and therefore should have no effect on Air Force use of the UTTR.

In a letter to the NRC dated September 15, 2000, the Deputy Assistant Secretary of the Air Force for Environment, Safety and Occupational Health stated that "[t]he Air Force is proud of its safety record and agrees that an accident is highly unlikely. We ask that the Final EIS [Environmental Impact Statement for the facility] publicly state that there is no foreseeable reason why the facility owners or the NRC should ever require or seek any changes in the operation of the UTTR."

**Conclusion** -- Private Fuel Storage's in-depth analysis provides a sound basis for the Department of Defense to evaluate the impact that the proposed amendment to the resource management plan would have upon military training, testing and operational readiness and, in compliance with Section 2815, to report to Congress in a timely manner. The failure of the Department of Defense to undertake this study, as directed by law, appears to be in direct contradiction to Executive Order 13212 and offers a prime example of a federal agency's inaction thus delaying or stopping the orderly, ongoing licensing of a facility that is key to the continued production of electricity from nuclear power generating facilities throughout the nation.

We urge the Energy Task Force to take immediate action, to require the Department of Defense to undertake this study as required by law, and allow both the NRC licensing process for the facility and the BLM action on the right of way request for the railroad to proceed.

We appreciate the opportunity to comment and offer this specific example of agency inaction.

Further information regarding the project may be found on the Private Fuel Storage web site at: [www.privatefuelstorage.com](http://www.privatefuelstorage.com) <<http://www.privatefuelstorage.com>>. Or please feel free to contact me directly.

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Or contact our Washington DC office representative:

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